

### **REMARKS**

The present response is submitted in reply to the Final Office action issued on May 27, 2009. Claims 32-38 are pending in this application, each of which have been rejected. By the present response, claims 32-38 have been amended and claims 40-46 have been newly added, as discussed below.

In particular, claims 32-38 have been amended to indicate that the adhesive is an adhesive layer (see, for example, paragraphs [000010] and [000011] of the present specification) and the Examples (paragraph [000056], "adhesive films").

New claims 39 and 40 further define the adhesive layers as being in a dried state, and in particular a dried film (paragraphs [000011], [000055], [000056]).

New claims 41 – 46 recite the present invention as an adhesive composition. Generally, the adhesive layers according to the present invention are prepared from liquid, solvent-containing compositions by coating the compositions onto an inert support, followed by drying to evaporate the solvents (e.g., paragraph [000055] of the specification). Hence, the present invention relates to adhesive compositions in addition to adhesive layers (or films) (see, for example, paragraph [000031]: "the adhesive compositions, respectively the adhesive layers). In this regard, claims 41-46 are drawn to adhesive compositions which additionally contain a solvent portion. Support can be found throughout the specification, such as at paragraphs [000033] and [000043] – [000055]; Examples.

Claim 41 is based on former claim 1, as well as on paragraph [000033] of the substitute specification. Support for claims 42 – 46 can be found throughout the specification, such as at paragraph [000033] and the Examples.

No new matter has been added. Reconsideration is respectfully requested in light of the amendments being made hereby and of the following remarks.

**Finality of the Office action**

It is stated in the Office action dated May 27, 2009 that the Applicant's previous amendment necessitated the new ground(s) of rejection presented in that Office action. Accordingly, the Examiner made the present Office action final.

The Applicant respectfully disagrees that the amendment necessitated the new ground(s) of rejection and that in turn the present Office action should not be final. It is the Applicant's position that the finality of the Office action should be withdrawn as discussed below. It is noted that the present response is filed in conjunction with a Request for Continued Examination (RCE). The Applicant notes that the present RCE should be entered only in the event the Examiner maintains the finality of the present Office action. In the event the Examiner agrees to withdraw the finality, then the RCE should not be entered as the response would be in reply to a non-final Office action.

In particular, the previously filed claim amendments included every limitation of the claims from which they were based. Specifically, new claim 32 had combined former claims 1 and 30 and included each and every limitation therein, including the subject matter which the Examiner had concluded was allowable. It is further submitted that former claim 1 included the term "and/or" by which the film-forming polymer is defined as an optional component. Consequently, it would not be necessary to include this component in claim 32. Therefore, it is the Applicant's position that the amendment did

not necessitate a new ground(s) for rejection and thus the present Office action should be considered a non-final Office action.

**Rejection of claims 32-38 under 35 U.S.C. 102(b)**

Claims 32-38 have been rejected under 35 U.S.C. 102(b) as being anticipated by WO 93/06144 (Gangadharan). The Examiner argues in the Final Office action that Gangadharan discloses adhesive products capable of use with medical patches or transdermal therapeutic systems and that the adhesive comprises a moisture activated adhesive composition and a hydrophobic adhesive polymer core (psa polymer component), wherein the psa component can be a polyacrylate and at least one component such as polyethers and acid anhydrides including acids salts of acid anhydrides such as methylvinyl ether/maleic acid copolymers or a cellulose derivative such as carboxymethyl cellulose. Therefore, the Examiner concludes that the reference anticipates the presently claimed invention as recited in claims 32-38.

The Applicants respectfully disagree with the Examiner's conclusion and submit that the present invention is patentably distinct from the invention disclosed in the cited reference. Moreover, the Applicants submit that each and every feature set forth in the present claims is not taught or disclosed by the cited reference, and therefore the reference does not anticipate the present invention as presently claimed.

Gangadharan discloses adhesive compositions which contain coated adhesive particles (emphasis added) or cores, i.e., an adhesive which is in particulate form (page 1, lines 24-25; page 2, lines 7-9). The particles may be processed in a paste (claim 12). However, Gangadharan fails to disclose an adhesive layer for medical patches or for

transdermal therapeutic systems, the adhesive layer having a tackiness which is activated and/or increased by contact with moisture or by absorption of moisture, and wherein the adhesive layer comprises at least one pressure-sensitive adhesive polymer and at least one component selected from the group consisting of polyethers and acid anhydrides including acids and salts of acid anhydrides, as would be required in order for this reference to anticipate the presently claimed invention. Moreover, the reference fails to teach or disclose a dry adhesive layer or a dry adhesive film layer, as recited in present claims 39 and 40.

Gangadharan also fails to teach an adhesive composition that contains a solvent portion, as recited in new claims 41 and 42-46 dependent therefrom. According to Example 2 and Table II, the coated adhesive particles were dispersed in a melt rather than in a solvent. The previously cited patent to Repka also teaches only compositions for hot melt processing (Abstract; Examples; Claim 1).

In view of the above, the Applicant respectfully submits that Gangadharan fails to teach each and every limitation of the presently claimed invention and therefore Gangadharan does not anticipate the present invention as defined in the instant claims. Therefore, withdrawal of the present rejection is appropriate and is respectfully requested.

### **Conclusion**

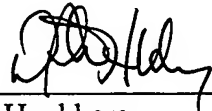
For the foregoing reasons, it is believed that the present application, as amended, is in condition for allowance, and such action is earnestly solicited. Based on the foregoing arguments and the deficiencies of the prior art references, the Applicants strongly urge that the rejections be withdrawn. The Examiner is invited to call the

undersigned if there are any remaining issues to be discussed which could expedite the prosecution of the present application.

Respectfully submitted,

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